

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

DOMINIC REALE,)	
)	
Plaintiff,)	Civil Action No. 18-229
)	Magistrate Judge Maureen P. Kelly
v.)	
)	Re: ECF No. 31
RONALD HOUGH, <i>as an individual</i> , CITY)	
OF PITTSBURGH, RAY RIPPOLE, <i>as an</i>)	
<i>individual</i> , and JOHN and/or JANE DOE, <i>as</i>)	
<i>an individual</i> ,)	
)	
Defendants.)	

ORDER OF COURT

Pending before the Court is a Motion to Dismiss filed on behalf of Defendants City of Pittsburgh, Officer Ray Rippole, and John and/or Jane Doe(s), identified in Plaintiff's Amended Complaint as employees of the City of Pittsburgh Police Department. ECF No. 31. The Motion to Dismiss seeks the dismissal of all claims asserted against each of these Defendants at Counts I, II, and III of the Amended Complaint pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure for failing to state a claim upon which relief may be granted. In response to the Motion to Dismiss, Plaintiff has voluntarily withdrawn each of these claims against the moving Defendants, and requests that the Court therefore deny the Motion to Dismiss as moot.

On October 24, 2018, this Court dismissed Plaintiff's Section 1983 and Fourth Amendment claims against Defendant Hough at Count I of the Complaint without prejudice, and Plaintiff's claims at Count II with prejudice. ECF No. 27. At this time, given Plaintiff's responses to the Motions to Dismiss, ECF Nos. 21 and 40, and this Court's prior Order, the sole

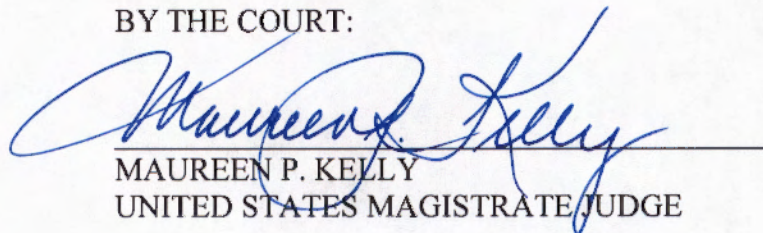
remaining claim, Count IV of the Amended Complaint, is a state law claim for assault and battery asserted against Defendant Hough. ECF No. 16. Plaintiff states that he will pursue any claims against Defendants, if at all, in Pennsylvania state court.

In the absence of any remaining claims against any party arising under federal law, this Court declines to exercise supplemental jurisdiction over Plaintiff's assault and battery claim (Count IV). The United States Court of Appeals for the Third Circuit has held that "where the claim over which the district court has original jurisdiction is dismissed before trial, the district court must decline to decide the pendent state claims unless considerations of judicial economy, convenience, and fairness to the parties provide an affirmative justification for doing so." Hughes v. Musco, 204 F.3d 109, 123 (3d Cir. 2000). In this instance, the parties have not asserted any justification for this Court to exercise its jurisdiction and accordingly, the following Order is entered:

IT IS HEREBY ORDERED this 29th day of January, 2019, that the Motion to Dismiss, ECF No. 31, is DENIED AS MOOT.

IT IS FURTHER ORDERED that Plaintiff's Amended Complaint, ECF No. 16 is dismissed and the Clerk shall mark this matter CLOSED.

BY THE COURT:


MAUREEN P. KELLY
UNITED STATES MAGISTRATE JUDGE

cc: All counsel via CM/ECF